

BILL ANALYSIS

Senate Research Center

H.B. 2120
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Texas Unemployment Compensation Act (TUCA), an individual is entitled to unemployment benefits based upon wages actually received during that individual's base period of employment. Current law authorizes the Texas Workforce Commission (TWC) to only count wages actually received when determining wage credits for an individual's base period. TWC has no authority to credit wages owed but not actually paid to an individual. Wage credits determine whether an individual qualifies monetarily for unemployment benefits. TUCA also provides that only workers available for full-time work are able to draw unemployment compensation benefits. Many part-time workers have legitimate reasons for only pursuing part-time work, such as being married or having school-aged children. These workers are excluded from unemployment compensation benefits even though part-time wages are subject to unemployment compensation payroll taxes and part-time earnings are counted towards a claimant's monetary eligibility determination.

TUCA also currently stipulates that individuals who are discharged from employment for misconduct or leave voluntarily without good cause can avoid a disqualification from receiving unemployment compensation benefits by accepting, then being laid off from, a brief temporary job. This is true regardless of the nature of the claimant's previous employment or of the temporary work. In such cases, the entire liability paid would be absorbed by the claimant's base period employers or by the Unemployment Compensation Fund.

On September 27, 2006, the United States Department of Labor published final rules on confidentiality and disclosure of state unemployment compensation information. These comprehensive rules set out minimum requirements for confidentiality but make clear that states may adopt more stringent confidentiality provisions than those imposed by the final regulations. The final rules became effective on October 27, 2006; however, states have up to two years to enact necessary conforming state laws to implement changes required or authorized by these federal regulations.

Finally, unemployment benefits provide a stabilizing factor in times of economic downturn and ease the burden of job loss by providing temporary income to individuals seeking new employment who have lost their jobs through no fault of their own. Maintaining an independent source of income is critical for victims of domestic violence or stalking.

H.B. 2120 allows TWC to count wages owed as benefit wage credits in the individual's base period of employment even if payment of those wages has not yet been made. The bill allows certain individuals who are available for part-time work to draw unemployment compensation benefits. This bill also limits the avoidance of disqualification for unemployment compensation benefits for certain claimants. The bill conforms state law to newly issued federal unemployment compensation confidentiality regulations. This bill also authorizes individuals who have lost their jobs as a result of domestic violence or stalking to use certain documentation as evidence in order to receive unemployment benefits.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 3 (Section 207.002, Labor Code), SECTION 4 (Section 207.004, Labor Code) and SECTION 9 (Section 301.085, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Reenacts and amends Section 204.022(a), Labor Code, as amended by Chapters 39, 493, and 728, Acts of the 79th Legislature, Regular Session, 2005, as follows:

(a) Prohibits benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer if the employee's last separation from employment before the employee's benefit year resulted from the employee leaving the workplace to protect the employee from family violence or stalking as evidenced by certain documentation, including a physician's statement or other medical documentation that describes the family violence against the employee that is recorded in any form or medium that identifies the employee as the patient and relates to the history, diagnosis, treatment, or prognosis of the patient. Redesignates existing Subdivision (12), as added by Chapter 493, Acts of the 79th Legislature, Regular Session, 2005, as Subdivision (13).

SECTION 2. Amends Section 204.022(c), Labor Code, to prohibit evidence regarding an employee described by Subsection (a)(11) (related to leaving the workplace to protect the employee from family violence or stalking), rather than Subsection (a)(9) (related to resigning from partial employment to accept other employment that the employee believed would increase his or her weekly wage), from being disclosed to any person without the employee's consent.

SECTION 3. Amends Section 207.002, Labor Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Provides that, for purposes of this subsection, the wages received by the individual from employment by employers during the individual's base period include wages ordered to be paid to the individual by a final order of the Texas Workforce Commission (TWC) under Chapter 61 (Payment of Wages) that were due to be paid to the individual by an employer during the individual's base period and will be credited to the date or dates on which the payment of those wages was due.

(a-1) Requires TWC by rule to determine the method of crediting wages to a particular quarter for purposes of Subsection (a).

(a-2) Creates this subsection from existing text.

SECTION 4. Amends Section 207.004, Labor Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires TWC to credit as benefit wage credits during an individual's base period wages the individual received for employment from an employer during the individual's base period and wages order to be paid by a final order issued by TWC under Chapter 61 that were due to be paid by an employer during the individual's base period and will be credited to the date or dates on which the payment of those wages was due.

(a-1) Requires TWC by rule to determine the method of crediting wages to an individual's base period for purposes of Subsection (a).

SECTION 5. Amends Section 207.021, Labor Code, by adding Subsection (d), to provide that an individual is available for work for purposes of Subsection (a)(4) even if the individual is available only for part-time work under certain circumstances.

SECTION 6. Amends Section 207.046(a), Labor Code, to provide that an individual is not disqualified for benefits under this subchapter (Exceptions to and Disqualification for Benefits) if the individual leaves the workplace to protect the individual from family violence or stalking as evidenced by certain documentation, including a physician's statement or other medical documentation that describes the family violence against the employee that is recorded in any form or medium that identifies the employee as the patient and relates to the history, diagnosis, treatment, or prognosis of the patient.

SECTION 7. Amends Section 208.002, Labor Code, as follows:

Sec. 208.002. New heading: INITIAL CLAIM; LAST WORK. (a) Defines "last work" and "person for whom the claimant last worked."

(b) and (c) Redesignated from Subsections (a) and (b), respectively.

SECTION 8. Amends Sections 301.081(c) and (d), Labor Code, as follows:

(c) Prohibits employment information obtained or otherwise secured under this section from being published and provides that it is not open to public inspection, other than to a public employee in the performance of public duties, except as TWC considers necessary for the proper administration of this title (Employment Services and Unemployment) or as provided by TWC rule and consistent with federal law.

(d) Provides that a person, rather than an employee or member of TWC, commits an offense if the person violates any provision of this section (Employee Records of Employing Unit; Offense; Penalty). Provides that an offense under this subsection is a Class A misdemeanor, rather than punishable by a fine in an amount between \$20 and \$200, confinement in jail for not more than 90 days, or both fine and confinement.

SECTION 9. Amends Subchapter F, Chapter 301, Labor Code, by adding Section 301.085, as follows:

Sec. 301.085. UNEMPLOYMENT COMPENSATION INFORMATION; OFFENSE; PENALTY. (a) Defines "unemployment compensation."

(b) Requires TWC, consistent with federal law, to adopt and enforce reasonable rules governing the confidentiality, custody, use, preservation, and disclosure of unemployment compensation information. Requires the rules to include safeguards to protect the confidentiality of identifying information regarding any individual or any past or present employer or employing unit contained in unemployment compensation information, including any information that foreseeably could be combined with other publicly available information to reveal identifying information regarding the individual, employer, or employing unit, as applicable.

(c) Provides that unemployment compensation information is not public information for purposes of Chapter 552 (Public Information), Government Code.

(d) Sets forth certain actions that constitute the commission of an offense related to disclosure of confidential identifying information, unless the action is permitted by this subchapter (Records) or TWC rule.

(e) Provides that an offense under Subsection (d) is a Class A misdemeanor.

SECTION 10. Makes application of Section 301.081(d), Labor Code, as amended by this Act, prospective.

SECTION 11. Provides that, to the extent of any conflict, this Act prevails over another Act of the 80th Legislature, Regular Session, 2007, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 12. Makes application of this Act prospective.

SECTION 13. Effective date: upon passage or September 1, 2007.